I

110TH CONGRESS
1ST SESSION

H. R. 4002

To establish a program to preserve rural multifamily housing assisted under the Housing Act of 1949.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2007

Mr. LINCOLN DAVIS of Tennessee (for himself and Mr. DAVIS of Kentucky) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish a program to preserve rural multifamily housing assisted under the Housing Act of 1949.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Housing Preservation Act of 2007".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the average age of a multifamily housing project with a loan under section 515 of the Housing Act of 1949 is 30 years, and therefore much of the

portfolio of such projects is aging and in need of preservation, while the need for affordable rural housing is increasing;

(2) section 515 projects house some of the poorest families in rural America, with almost 60 percent of the units occupied by senior citizens or persons with disabilities and an average annual household income among all occupants of approximately $10,000;

(3) in many small towns and communities, rental housing financed by direct loans under section 515 is the only decent, affordable rental housing available; and

(4) consequently, any preservation or disposition of the multifamily housing portfolio with loans under section 515, which houses approximately 465,000 low-income families and seniors and farmworkers, should be handled with great care.

(b) PURPOSES.—The purposes of this Act are—

(1) to authorize the Secretary of Agriculture to carry out a program that encourages the preservation of section 515 housing project developments for long-term affordable use and the repair and revitalization of such properties;

(2) to provide for voucher assistance for tenants who live in such projects that are preserved under this Act; and

(3) to provide voucher assistance for tenants who are displaced from such projects as a result of prepayment or foreclosure on a loan for the project.

SEC. 3. PRESERVATION OF MULTIFAMILY HOUSING.

(a) PRESERVATION PROGRAM.—Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

"SEC. 544. PRESERVATION OF MULTIFAMILY HOUSING AND PROTECTION OF TENANTS.

"(a) PRESERVATION PROGRAM.—The Secretary shall, subject to the availability of amounts appropriated, carry out a preservation program in accordance with this section to provide financial incentives and other assistance to owners of eligible projects through long-term use agreements entered into between the project owners and the Secretary.

"(b) APPLICATIONS TO PARTICIPATE.—

"(1) IN GENERAL.—The Secretary shall accept applications from owners of eligible projects to participate in the preservation program under this section.

"(2) PRIORITY.—In selecting among applications of eligible projects to participate in the preservation program, the Secretary may give priority to applications for such projects that are located on tribal trust lands or other Indian areas, in colonias (as such term is defined in section 916(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note), or in other small, poor, low-income communities.

"(c) LONG-TERM VIABILITY PLAN.—

"(1) REQUIREMENT.—The Secretary shall prepare and approve a long-term viability plan under this subsection with respect to each eligible project for which the owner requests to participate.

"(2) CONTENTS.—Each long-term viability plan for an eligible project shall include the following information:

"(A) PHYSICAL NEEDS ASSESSMENT.—A physical needs assessment of the project that identifies and projects, for the following 30 years—

"(i) all necessary repairs, improvements, maintenance, and management standards for the project, and when they will be made, in order to meet the requirements of this title; and

"(ii) the costs associated with the items referred to clause (i).

"(B) FINANCIAL PLAN.—A financial plan for the project that—

"(i) reviews the financial stability of the project;

"(ii) includes the loan restructuring elements, rent adjustments, management and operational efficiencies, and other financial adjustments to the project that are necessary to cover operating expenses for the project and maintain an adequate financial reserve for the future maintenance and capital needs of the project;

"(iii) provides the project owner with a long-term rate of return on equity of the project owner, as determined by the Secretary, commensurate to comparable rural multifamily housing projects for which a tax credit is provided under section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42), and provides that any return in excess of such rate of return shall be made available to the Secretary only for use under section 515;

"(iv) meets the physical needs for the project determined under the physical needs assessment;

"(v) ensures that rents available under the plan are affordable to eligible households in accordance with subsection (f); and

"(vi) addresses any costs associated with any temporary tenant displacement resulting from renovations or rehabilitation undertaken as a result of participation of the project in the preservation program.

"(3) DEVELOPMENT THROUGH PARTICIPATING ADMINISTRATIVE ENTITIES.—The Secretary may develop long-term viability plans through the use of third-party participating administrative entities, who may be a private contractor, a State housing finance agency, or a nonprofit organization.

"(4) PRESERVATION DETERMINATION.—Based on the long-term viability plan for an eligible project, the Secretary shall determine whether to offer the project owner a financial restructuring plan under subsection (d) and the financial incentives to be included in any such plan offered.

"(5) FINAL REVIEW AND COMMENT.—Before a determination is made under subparagraph (D) with respect to any long-term viability plan prepared by the Secretary, the Secretary shall—

"(A) provide the project owner an opportunity to review the plan and discuss the plan with the Secretary or its agent;

"(B) make available to the tenants of the project a copy of such plan and provide a period of not less than 30 days for tenants to submit comments regarding the plan to the Secretary; and

"(C) respond in writing to such comments.

"(6) FEES.—The Secretary may charge the project owner a fee for preparation of the long-term viability plan.

"(7) PAYMENT OF FEES.—If a long-term viability for a project is approved, the payment of such fee may be incorporated into a project owner's financial restructuring plan for the project provided by the Secretary pursuant to subsection (d).

"(d) FINANCIAL RESTRUCTURING PLAN; PRESERVATION INCENTIVES.—Based on the long-term viability plan for an eligible project, the Secretary may offer a project owner a financial restructuring plan for the project. Such a plan may include one or more of the following preservation incentives:

"(1) Reduction or elimination of interest on the loan or loans for the project made under section 515.

"(2) Partial or full deferral of payments due under such loan or loans.

"(3) Forgiveness of such loan or loans.

"(4) Subordination of such loan or loans, subject to such terms and conditions as the Secretary shall determine.

"(5) Reamortization of loan payments under such loan or loans over extended terms.

"(6) A grant from the Secretary for the project.

"(7) Payment of project costs associated with developing the long-term viability plan.

"(8) Opportunity for project owners to obtain further investment equity from third parties.

"(9) A direct loan or guarantee of a loan for the project, with a subsidized interest rate without regard to the value of the project.

"(e) LONG-TERM USE AGREEMENT.—

"(1) IN GENERAL.—If the owner of an eligible project agrees to the terms of a financial restructuring plan for the project providing preservation benefits under subsection (d), in exchange for such benefits, the Secretary and the project owner shall enter into a long-term use agreement under this subsection for the project.

"(2) AGREEMENT.—A long-term use agreement for an eligible project shall include—

"(A) the terms of the financial restructuring plan for the project, including any preservation incentives to be provided;

"(B) an agreement by the project owner—

"(i) to continue the property use restrictions with respect to the project in accordance with this title for a period of—

"(I) 30 years, or

"(II) the remaining term of any loans under this title for the project,

whichever ends later;

"(ii) to comply with the long-term viability plan for the project; and

"(iii) to comply with the rent terms under subsection (f) for the project;

"(C) provisions terminating the agreement if any material preservation incentives for the project to be provided under the agreement are no longer available and the Secretary determines that such unavailability is not the fault of the owner;

"(D) any rent terms for the project pursuant to subsection (f);

"(E) a covenant which runs with the land;

"(F) a representation and warranty by the owner to provide safe, healthy, clean buildings pursuant to the Secretary's guidelines;

"(G) provisions providing for rural preservation voucher assistance under section 542(c) for low-income households residing in the project who are eligible for such vouchers; and

"(H) such other terms as the Secretary determines are necessary to implement the purposes of this section.

"(f) RENTS UNDER LONG-TERM USE AGREEMENT.—Rents for any eligible households residing in dwelling units in any preserved project shall comply with the following requirements:

"(1) MAXIMUM HOUSEHOLD CONTRIBUTION TO RENT AND UTILITIES.—The maximum household contribution to monthly rent and utilities for any eligible household may not exceed 30 percent of the adjusted income of the eligible household.

"(2) RENT ADJUSTMENTS.—The rents for eligible projects may be increased or decreased only on an annual basis and only in accordance with standards incorporated in such agreement.

"(3) LOWEST COST REQUIREMENT.—In determining the terms of a restructuring plan, and the type and amount of preservation benefits under such plan to approve under this section for an eligible project, the Secretary shall, to the extent practicable, approve assistance that imposes the least cost to the Secretary while meeting the requirements of the long-term viability plan for the project.

"(g) EARNED INCOME DISREGARD FOR RESIDENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the amount of the contribution toward rent for a dwelling unit payable, by any household described in paragraph (3), for occupancy in a project funded with a loan under section 515 may not be increased as a result of the increased income due to employment during the 12-month period beginning on the date on which the employment is commenced.

"(2) PHASE-IN OF RENT INCREASES.—Upon the expiration of the 12-month period referred to in paragraph (1), the contribution toward rent payable by a household described in paragraph (3) may be increased due to the continued employment of the household member described in subparagraph (3)(B), except that during the 12-month period beginning upon such expiration the amount of the increase may not be greater than 50 percent of the amount of the total increase in contribution toward rent that would be applicable but for this paragraph.

"(3) ELIGIBLE HOUSEHOLD.—A household described in this paragraph is a household that—

"(A)(i) is an eligible household who resides in a eligible project; or

"(ii) is provided rural preservation voucher assistance pursuant to section 542(c); and

"(B)(i) whose income increases as a result of employment of a member of the household who was previously unemployed for 1 or more years;

"(ii) whose earned income increases during the participation of a household member in any family self-sufficiency or other job training program; or

''(iii) who is or was, within 6 months, assisted under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose earned income increases.

''(h) INELIGIBILITY.—

''(1) PROCEDURE FOR DETERMINATION.—The Secretary may determine that a project owner is ineligible for participation in the preservation program under this section in accordance with the standards under paragraph (2).

''(2) STANDARDS.—The Secretary may determine that a project owner is ineligible if—

''(A) the project owner has a history of poor management or maintenance of multifamily housing properties;

''(B) the project owner is in default on a loan made available under the section 515 housing program;

''(C) the Secretary is unable to enter into a long-term use agreement for the project that is the subject of the application with the project owner within a reasonable time;

"(D) the project owner is suspended or debarred from participating in Federal contracts or programs; or

"(E) the Secretary has other good cause for withholding from the project owner the benefits made available under this section.

"(3) INELIGIBILITY BECAUSE OF ACTION FOR PREPAYMENT.—A project owner shall be ineligible for participation in the preservation program under this section if the owner—

"(A) is a party to an ongoing civil action brought to authorize the prepayment of the section 515 loan for the eligible project, or is a party to a damages action brought to recover damages caused by the passage of the Emergency Low Income Housing Preservation Act of 1987 or amendments to such Act, for which a final judgment, settlement agreement, or consent decree has not yet been issued; or

"(B) was a party to a civil action brought to authorize the prepayment of the section 515 loan for the eligible project, or was a party to a damages action brought to recover damages caused by the passage of the Emergency Low Income Housing Preservation Act of 1987 or amendments to such Act, under which damages were awarded to the project owner, and the owner has not agreed to contribute at least 50 percent of such damages, or $100,000, whichever is less, to carrying out the financial restructuring plan and long-term use agreement for the preserved project.

''(i) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) ELIGIBLE HOUSEHOLD.—The term 'eligible household' means a household that, under section 515, is eligible to reside in a project funded with a loan made by the Secretary under such section.

''(2) ELIGIBLE PROJECT.—The term 'eligible project' means a housing project funded with a loan made at any time by the Secretary under section 515, the principal obligation of which has not been fully repaid.

''(3) PROJECT OWNER; OWNER.—The terms 'project owner' and 'owner' mean, with respect to an eligible project, an individual or entity, or principals thereof that own, or plan to purchase, the project.

"(4) PRESERVED PROJECT.—The term 'preserved project' means an eligible project for which the Secretary and owner have entered into agreement on a financial restructuring plan for the project and into a long-term use agreement for the project, under this section.

"(j) ANNUAL REPORT.—The Secretary shall submit a report to the Congress annually regarding the compliance of owners of eligible projects participating in the preservation program under this section with the requirements of such program, which shall identify and describe any significant failures to comply.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2008 through 2012 such sums as may be necessary to carry out the preservation program under this section.".

SEC. 4. RURAL PRESERVATION AND RURAL TENANT PROTECTION VOUCHERS.

Section 542 of the Housing Act of 1949 (42 U.S.C. 1490r) is amended by adding at the end the following new subsections:

"(c) RURAL PRESERVATION VOUCHERS.—In the case of a housing project subject to a loan made under section 515 that is a preserved project (as such term is defined in section 544(i)), the Secretary shall, to the extent that amounts for assistance under this subsection are provided in advance in appropriation Acts, make available voucher assistance to each eligible household (as such term is defined in section 544(i)) that is not assisted under the rental assistance program under section 521 or the program for rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and is residing in the project upon the date that a long-term use agreement is entered into pursuant to section 544(e) between the project owner and the Secretary, voucher assistance upon such date, as follows:

''(1) The amount of assistance provided under the voucher shall be sufficient to allow such household to remain in the project after it is preserved.

''(2) The percentage of adjusted income paid by the eligible household for rent and utilities for the assisted dwelling, pursuant to the voucher, shall not exceed 30 percent of adjusted income of the eligible household.

''(3) The voucher assistance shall be available to the eligible household only during the period in which the eligible household resides in the preserved project and the long-term use agreement remains in effect.

"(4) Upon termination of the participation of the eligible household in the voucher program, the voucher shall remain attached to the preserved project and shall be available for use by another eligible household residing in the preserved project.

"(d) RURAL TENANT PROTECTION VOUCHERS.—

"(1) IN GENERAL.—In the case of a housing project subject to a loan made under section 515 that is prepaid or foreclosed upon, the Secretary shall, to the extent that amounts for assistance under this subsection are provided in advance in appropriation Acts, make available to each eligible household (as such term is defined in section 544(i)) that is not assisted under the rental assistance program under section 521 or the program for rental assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and is residing in a dwelling unit in the project upon the date that the Secretary approves the prepayment or submits notice of foreclosure to the project owner, as applicable, voucher assistance upon such date, as follows:

"(A) RELOCATION VOUCHERS.—In the case of any such eligible household who must relocate from a project for which the loan is being prepaid or foreclosed upon, voucher assistance under this subsection shall be subject to the terms of section 8(o) of the United State Housing Act of 1937 (42 U.S.C. 1437(o)), except that—

"(i) the percentage of adjusted income paid by the eligible household for rent and utilities for the assisted dwelling unit shall not at any time exceed 30 percent of the adjusted income of the eligible household; and

"(ii) a voucher provided pursuant to this subparagraph shall be subject to the terms of section 8(r) of such Act (relating to portability), except that if an eligible household uses the voucher to move to a community other than the community in which the project from which the family relocated pursuant to such prepayment or foreclosure is located, upon termination of the participation of such eligible family in the voucher program, the voucher shall be returned for use in the community in which such project is located.

"(B) ENHANCED VOUCHERS.—In the case of any such eligible household who remains in a project for which the loan is prepaid or foreclosed upon, voucher assistance under this subsection shall be subject to the terms of section 8(t) of the United State Housing Act of 1937 (42 U.S.C. 1437f(t)), except that—

"(i) the percentage of adjusted income paid by the eligible household for rent and utilities for the assisted dwelling unit shall not at any time exceed 30 percent of the adjusted income of the eligible household;

"(ii) the owner of the project may not refuse to lease, to an eligible household for whom voucher assistance under this subparagraph is made available, any available appropriately sized rental dwelling unit in the project;

"(iii) voucher assistance under this subparagraph may be used only for dwelling units in housing that is decent, safe, and sanitary; and

"(iv) upon termination of participation of such eligible family in the enhanced voucher program, the voucher shall convert to a relocation voucher under subparagraph (A) of this paragraph, and shall be available with respect to such project only to provide assistance in accordance with the provisions of such subparagraph.

"(e) ADMINISTRATION.—The Secretary may contract with a public housing agency or a private or nonprofit organization to administer vouchers authorized under subsections (c) and (d).

"(f) RENEWAL.—Vouchers under subsections (c) and (d) shall be renewed annually, subject to the availability of appropriations for such renewal.

"(g) USE OF SAVINGS.—Notwithstanding any other provision of law, any amounts made available for voucher assistance under subsections (c) and (d) that remain unused because of increases in the incomes of household assisted under such vouchers shall be available to the Secretary for eligible activities under this Act.

"(h) APPLICABILITY OF SECTION 8 PROGRAM.—Except as specifically provided otherwise in this section, to the maximum extent practicable, the Secretary shall administer voucher assistance subsections (c) and (d) in accordance with, but not subject to, regulations and administrative guidance for housing vouchers administered by the Secretary of Housing and Urban Development under section 8(o) of such Act.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for voucher assistance under subsections (c) and (d) such sums as may be necessary for each of fiscal years 2008 through 2012.".

SEC. 5. PRIORITY FOR FINANCING.

Subsection (j) of section 515 of the Housing Act of 1949 (42 U.S.C. 1485(j)) is amended—

(1) by inserting "(1)" before "For"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may give priority, in entering into contracts under this section involving financing for new construction of a project, for projects located in eligible rural areas having a need for affordable low-income rental housing due to prepayment of loans made or insured under this section.".

SEC. 6. CONFORMING AMENDMENT.

Section 537(b)(1) of the Housing Act of 1949 (42 U.S.C. 1490p–1(b)(1)) is amended by inserting before the semicolon the following: "and to administer the preservation program under section 544".

SEC. 7. REGULATIONS.

The Secretary of Agriculture shall issue proposed regulations to carry out the amendments made by this Act not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act, and shall issue final regulations to carry out the amendments made by this Act not later than the expiration of the 180-day period beginning upon such date of enactment.

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